

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

DAVID R. FAKIER, M.D.

License No. 35963

For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-08-0185A

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and David R. Fakier, M.D. ("Respondent"), the parties agree to the following disposition of this matter.

1. Respondent has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Respondent voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

3. This Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

4. The Board may adopt this Consent Agreement or any part thereof. This Consent Agreement, or any part thereof, may be considered in any future disciplinary action against Respondent.

5. This Consent Agreement does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any

1 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
2 other pending or future investigation, action or proceeding. The acceptance of this
3 Consent Agreement does not preclude any other agency, subdivision or officer of this
4 State from instituting other civil or criminal proceedings with respect to the conduct that is
5 the subject of this Consent Agreement.

6 6. All admissions made by Respondent are solely for final disposition of this
7 matter and any subsequent related administrative proceedings or civil litigation involving
8 the Board and Respondent. Therefore, said admissions by Respondent are not intended
9 or made for any other use, such as in the context of another state or federal government
10 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
11 any other state or federal court.

12 7. Upon signing this agreement, and returning this document (or a copy thereof)
13 to the Board's Executive Director, Respondent may not revoke the acceptance of the
14 Consent Agreement. Respondent may not make any modifications to the document. Any
15 modifications to this original document are ineffective and void unless mutually approved
16 by the parties.

17 8. If the Board does not adopt this Consent Agreement, Respondent will not
18 assert as a defense that the Board's consideration of this Consent Agreement constitutes
19 bias, prejudice, prejudgment or other similar defense.

20 9. This Consent Agreement, once approved and signed, is a public record that
21 will be publicly disseminated as a formal action of the Board and will be reported to the
22 National Practitioner Data Bank and to the Arizona Medical Board's website.

23 10. If any part of the Consent Agreement is later declared void or otherwise
24 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force
25 and effect.

1 11. Any violation of this Consent Agreement constitutes unprofessional conduct
2 and may result in disciplinary action. A.R.S. § § 32-1401(27)(r) ("[v]iolating a formal order,
3 probation, consent agreement or stipulation issued or entered into by the board or its
4 executive director under this chapter") and 32-1451.

5
6
7 David R. Fakier MD
8 DAVID R. FAKIER, M.D.

DATED: 12/15/08

1 **FINDINGS OF FACT**

2 1. The Board is the duly constituted authority for the regulation and control of
3 the practice of allopathic medicine in the State of Arizona.

4 2. Respondent is the holder of license number 35963 for the practice of
5 allopathic medicine in the State of Arizona.

6 3. In June 1985, while in medical school, Respondent was charged with
7 involuntary manslaughter that involved a pedestrian automobile accident. Respondent pled
8 no contest to the charge of involuntary manslaughter due to reckless driving.

9 4. The Board initiated case number MD-08-0185A after receiving Respondent's
10 2008 license renewal application in which he disclosed that the Kentucky Medical Board
11 issued him a Letter of Admonishment on March 30, 2007, for failing to disclose his 1985
12 no contest plea on his Kentucky license application. In April 2007, the Kentucky Medical
13 Board issued Respondent a license.

14 5. Board staff's review of Respondent's initial application from May 2006,
15 showed that he also failed to disclose his 1985 no contest plea to the Arizona Medical
16 Board. In April 2006, Respondent joined Nighthawk Services Radiology, and their
17 licensing staff completed the applications. Respondent admitted that he failed to catch the
18 mistake when he signed the Arizona license application. He stated that a letter of
19 explanation dated April 2006 regarding the no contest plea had been prepared and should
20 have been attached.

21 **CONCLUSIONS OF LAW**

22 1. The Board possesses jurisdiction over the subject matter hereof and over
23 Respondent.

24 2. The conduct and circumstances described above constitute unprofessional
25 conduct pursuant to A.R.S. § 32-1401(27)(o) ("[a]ction that is taken against a doctor of

1 medicine by another licensing or regulatory jurisdiction due to that doctor's mental or
2 physical inability to engage safely in the practice of medicine, the doctor's medical
3 incompetence or for unprofessional conduct as defined by that jurisdiction and that
4 corresponds directly or indirectly to an act of unprofessional conduct prescribed by this
5 paragraph. The action taken may include refusing, denying, revoking or suspending a
6 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise
7 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on
8 probation by that jurisdiction.").

9 **ORDER**

10 IT IS HEREBY ORDERED THAT:

- 11 1. Respondent is issued a Letter of Reprimand.
12 2. This Order is the final disposition of case number MD-08-0185A.
13 EFFECTIVE this 5TH day of FEBRUARY, 2009.



ARIZONA MEDICAL BOARD

By


Lisa S. Wynn
Executive Director

18 ORIGINAL of the foregoing filed
19 this 5th day of February 2009 with:

20 Arizona Medical Board
21 9545 E. Doubletree Ranch Road
22 Scottsdale, AZ 85258

23 EXECUTED COPY of the foregoing mailed
24 this 5th day of February, 2009 to:

25 David R. Fakier, M.D.
Address of Record


Investigational Review

Ernie Fletcher
Governor



Danny M. Clark, M.D.
President

KENTUCKY BOARD OF MEDICAL LICENSURE

Hurstbourne Office Park
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
Telephone (502) 429-7150
www.kbml.ky.gov

March 30, 2007

David R. Fakier, M.D.
250 Northwest Boulevard #202
Coeur D' Alene, ID 83814

Re: Letter of Admonishment

Dear Dr. Fakier,

At its March 15, 2007 meeting, the Board reviewed your Application for Physician Licensure with attachments. In addition to the application, the Board reviewed the FBI background check indicating your arrest for involuntary manslaughter.

Having considered all of the information available and being sufficiently advised, the Board found that the grievance discloses an instance of misconduct which does not warrant the issuance of a Complaint. You are hereby **ADMONISHED** for that misconduct. The Panel voted to ask me to suggest to you that if, on future applications, you have any question about the applicability of a particular question, you resolve that ambiguity by answering, "yes," and providing an appropriate explanation. The Board also voted to assess a \$100 fine against you for not providing a truthful answer on the application.

Sincerely,


DANNY M. CLARK, M.D.
PRESIDENT

RECEIVED

JUN 02 2008

BUREAU OF HEALTH PROFESSIONS
HEALTH REGULATORY DIVISION
ALLEGATION SECTION

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